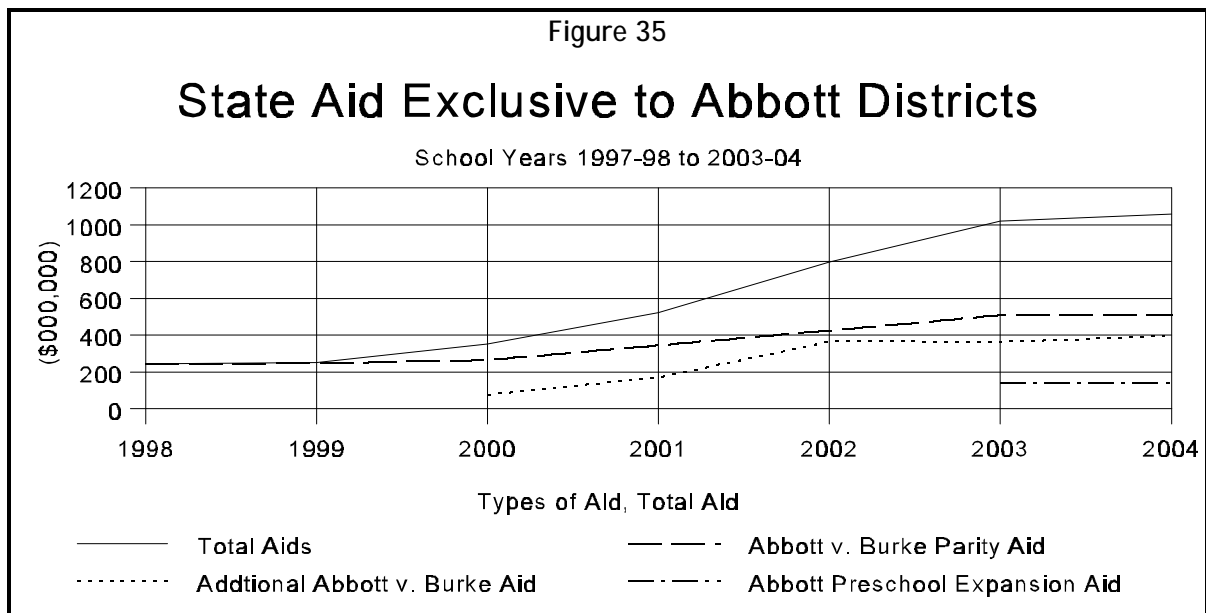


Background Paper: State School Aid and Educational Outcomes for Abbott Districts

Budget Pages.... D-116 to D-120

Including proposed State school aid for school year 2003-04, since school year 1997-98, the first school year for which State school aid was calculated under the "Comprehensive Educational Improvement and Financing Act of 1996" (CEIFA), other than that provided for debt service and facilities, the aid provided **exclusively**¹ to the 30 Abbott districts, totals over \$4.24 billion². This background paper provides a description of some of the significant factors involved in the provision of this aid, the purposes for which the aid has been provided and a table describing the scores of Abbott district students and students in the District Factor Groups "I" and "J" districts on the Elementary School Proficiency Assessment (ESPA). As will be described below, comparison on student outcomes was a critical part of the Supreme Court's Abbott decisions.



Background

This paper will focus on two of the factors which have been significant in the provision of aid to the Abbott districts: a decision by the Department of Education to develop a measure of the socioeconomic status of school districts after the department had initiated an Educational Assessment Program in the early 1970s; and a series of Supreme Court decisions, beginning with the Robinson v. Cahill decisions in the 1970s and continuing in the 1980s to the present with the

¹Abbott v. Burke Parity Aid (FY 1998), Additional Abbott v. Burke State Aid (FY 2000) and Abbott Preschool Expansion Aid (FY 2003).

²In addition to the above mentioned aid categories, section 13 of CEIFA provides that an Abbott district's T&E (thorough and efficient) budget is to be calculated using the maximum per pupil T & E amount.

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Abbott v. Burke decisions³. Those decisions represent the Court's interpretation of Article VIII, Section IV, paragraph 1 of the New Jersey Constitution which provides: "The Legislature shall provide for the maintenance and support of a thorough and efficient system of free public schools for the instruction of all the children in the State between the ages of five and eighteen years."

District Factor Groups

In 1975, the Department of Education, using 1970 census data, produced a measure of school district socioeconomic status called District Factor Groups (DFG, see Chart 1). According to a 1993 report⁴, this measure was developed to address at least the following three issues: 1) the relationship of education outcomes in the State of New Jersey to academic research, conducted in the late 1960s and early 1970s, which showed a strong relationship between socioeconomic status and educational outcomes; 2) the wide disparity across the State in Statewide test scores, affecting the ability of policy makers to make correct inferences about the effectiveness of educational inputs (State aid and school-based programs) without also considering the student, and all that the student brings, as an important input to the learning that produces educational outcomes; and 3) providing a way that the Department of Education could report outcome measures (Statewide test scores) so as to reduce the variation in test scores across school districts which is due to factors beyond local district control, and to permit comparisons between districts that are similar on those factors which are beyond the local district's control (socioeconomic factors). Chart 1 provides, in diagrammatic form, the understanding behind the development of the district factor measure. With great variation across the districts in the percent of students performing at a passing level, the department sought to explain this variation. This effort led to the development of the composite socioeconomic measure it labeled, District Factor Group. By making the line coming from students' input darker and wider, the diagram shows that student inputs were considered to have the greatest impact on the educational outcomes. There was a strong positive relationship between ranking on the DFG measure and the percent of students in districts passing Statewide assessments, a relationship which can still be found today.

The last time the DFG scores were calculated was in 1993, using 1990 Census data. The initial 1975 DFG measure included the following eight variables used to obtain measures of school districts: per capita family income level; two indices providing the average rank for district residents -- an index of occupation level (used the National Opinion Research Council's occupational prestige scores and determined an average ranking for 11 categories of occupations with laborer, the lowest rank, and old and new professional, the highest rank) and an index of educational attainment (a ranking of categories such as completed 12th grade, completed 14 years of education, etc.); percent of residents below the poverty level; mobility -- the percentage of persons living in the same housing unit for at least the past 10 years; density (the average number of persons per household); urbanization (percent of district considered urban); and unemployment (percent of those in the work force who received some unemployment compensation).

³See "Background Paper: Abbott Decisions," in Analysis of the New Jersey Fiscal Year 2002-2003 Budget, Department of Education pages 61-73 for a summary of the Abbott decisions by Anita Saynisch, Lead Counsel, Office of Legislative Service.

⁴Overview: The District Factor Grouping, Socioeconomic Status in New Jersey School Districts, 1990 Revision Process. Division of Financial Services, New Jersey Department of Education, July 7, 1993.

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These variables were combined using a statistical procedure called factor analysis⁵. Two underlying factors were found, with the first being interpreted as measuring socioeconomic status (SES). A factor score was generated for each school district and then the districts were ranked and the ranked districts evenly distributed into 10 groupings, the District Factor Groups, with DFG A being the grouping of districts with the lowest factor scores (lowest socioeconomic status) and DFG J being the grouping of districts with the highest factor scores (highest socioeconomic status).

Since it was first developed in 1975, this measure of socioeconomic status has been used in the grouping of districts to report the results of Statewide testing. Without exception, as one moves from DFG A to DFG J, there is a steady increase in the percent of students who are proficient on the Statewide tests, regardless of grade or subject. As will be discussed below, the fact that students in DFGs I and J, as a whole, always performed well on these Statewide tests became an important factor in the Supreme Court's decision concerning parity aid.

The last time the DFG was calculated (1993), two of the variables previously used were changed: the index of educational attainment -- used two variables, percentage of adult residents who have not completed high school and percentage who attended college; and the percent urban measure was replaced with a measure of population density. In addition, the number of DFG groupings was reduced from ten to eight, with no attempt as previously to have an equal number of districts in each group, but rather to base the grouping on the DFG scores.

Supreme Court Decisions

In 1985, after a lengthy review of its previous decisions in dealing with the issues regarding the provision of a thorough and efficient education, the New Jersey Supreme Court held⁶ that "the parties' claims should initially be presented to an administrative tribunal. But we also recognize the constitutional dimensions of plaintiffs' complaint, and direct the creation of an administrative record sufficient to guide the adjudication of the constitutional issues on any future appeal."⁷ The appropriate tribunal to consider "the evidence relevant to the parties' contentions and the facts at the heart of this controversy" (the constitutional challenge to the "Public School Education Act of 1975," P.L. 1975, c. 212 (C. 18A:7A-1 et seq.), referred to as "chapter 212"), was an appropriate administrative agency. The Court ordered that "[a]s a contested matter, this case shall be transferred by the Commissioner [of Education] under N.J.A.C. 1:1-5.1 to be heard by the Office of Administrative Law (OAL)."⁸

⁵Factor analysis provides a way (statistically) to determine if any unobservable variable can be interpreted as underlying and explaining variation on several observable (measurable) variables. In this case, using different observable measures of socioeconomic status and seeing if, in combination, they provide a composite measure of socioeconomic status that can then be used to "score" school districts on that composite measure and use the resulting variation among districts to explain variations in school district outcome measures -- Statewide assessments.

⁶Abbott v. Burke, 100 N.J. 269 (1985) (Abbott I)

⁷Abbott I at 279

⁸ Abbott I at 302

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The Court in Abbott I also:

- Discussed its understanding of the meaning of the constitution's guarantee of a thorough and efficient education. "The Court [in Robinson v. Cahill, 62 N.J. 473 (1973) (Robinson I)] explained that the constitutional guarantee of a thorough and efficient education requires 'equal educational opportunity' for all children... which 'must be understood to embrace that educational opportunity which is needed in the contemporary setting to equip a child for his [or her] role as a citizen and as a competitor in the labor market...' The Court further held that if any school district could not provide sufficient educational opportunity, the State must assure the delivery of constitutionally-required educational programs and facilities."⁹ Toward the end of its decision and with respect to the meaning of the constitution's guarantee, the Court stated: "Thus, in litigating the equal protection claim, it is anticipated that the parties will address issues that will overlap substantially with the questions raised by the claim based on the thorough and efficient clause. Both turn on proof that plaintiffs suffer educational inequities and that these inequities derive, in significant part, from the funding provisions of the 1975 Act. The claims may differ, however, in that the thorough and efficient education issues call for proofs that, after comparing the education received by children in property-poor districts to that offered in property-rich districts, it appears that the disadvantaged children will not be able to compete in, and contribute to, the society entered by the relatively advantaged children."¹⁰
- Discussed in more detail what can be considered at the school district level when seeking to understand if disparities exist with regard to school inputs and educational outcomes in assessing the plaintiffs' claim:
 - a. Inputs
 - (1) adequacy of instruction;
 - (2) breadth of program offerings;
 - (3) adequacy of programs and services for children with special education needs;
 - (4) qualification of school personnel;
 - (5) quality of physical facilities, materials and supplies;
 - (6) effectiveness of administration; and
 - (7) adequacy of monitoring and evaluation;
 - b. Outcomes
 - (1) standardized tests; and
 - (2) drop-out rates.¹¹
- Required that particular attention be given the claims regarding the existence of irremediable municipal overburden.¹²

⁹Abbott I at 280-281 (citations omitted)

¹⁰Abbott I at 295-296

¹¹Abbott I at 284-285

¹²Abbott I at 293

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Chart 2 diagrams the Court's understanding of the issues related to the variation in educational outcomes across school districts. Without denying the impact of differences in students' socioeconomic background and thus differences in students' input to the learning process, the Court also related disparities in school district wealth to disparities in school based programs and directed, on remand, that consideration be given to the impact of the seven areas listed on the chart on school based programs.

The Administrative Law Judge found that "evidence of sizable disparities in educational input, such as course offerings, teacher staffing, and per pupil expenditures, were related to disparities in school district wealth; that a constitutionally mandated thorough and efficient education was not being provided by the plaintiffs' districts, and others; that the inequality of educational opportunity Statewide itself constituted a denial of a thorough and efficient education; that the failure was systemic; and that chapter 212 and its funding were unconstitutional."¹³

Based in part on the Administrative Law Judge's report following the hearings, in Abbott II,¹⁴ "a unanimous Supreme Court held that chapter 212 violated the thorough and efficient clause of the State constitution and was unconstitutional as applied to the 28 poorer urban school districts in the State."¹⁵ The remedy devised by the Court in Abbott II was that chapter 212 had to be amended or new legislation passed that assured that the educational funding in the poorer urban districts was substantially equivalent to that of the property-rich districts.

Of considerable interest in the decision, is the Court's lengthy consideration of the District Factor Group measure. In its discussion of educational funding disparities initially, and then based on the identification of certain school districts in DFGs A and B and urban areas, the Court uses DFGs throughout the rest of its analysis to demonstrate that, for those districts, a system of thorough and efficient education did not exist. In this discussion and with respect to the origin of the DFG measure, the Court noted: "The possible significance of the origin of this SES comparison is worth noting. It was initiated to enable districts of a particular SES to measure their performance against others like them. The DOE [Department of Education] wanted to assist Trenton, for instance, in comparing its students' performance with those of Newark or Jersey City. Implicit is the conclusion that it would be pointless to make the comparison with Princeton or Cherry Hill. Without disputing the possible insight gained from such limited comparisons, we cannot avoid another side of this measurement. Such comparison, limited to districts with a similarly low SES, accepts the proposition that low SES districts should not be discouraged by their students' failure to perform at the level of high SES districts, or should not expect them to. The overall performance of their students should not be evaluated by measuring it against the performance of those in the affluent suburbs."¹⁶

¹³"Background Paper: Abbott Decisions," in Analysis of the New Jersey Fiscal Year 2002-2003 Budget, Department of Education, p. 62.

¹⁴Abbott v. Burke, 119 N.J. 287 (1990) (Abbott II)

¹⁵"Background Paper: Abbott Decisions," in Analysis of the New Jersey Fiscal Year 2002-2003 Budget, Department of Education, p. 62.

¹⁶Abbott II at 339

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The Court further explained its decision as follows: "We have decided this case on the premise that the children of poorer urban districts are as capable as all others; that their deficiencies stem from their socioeconomic status; and that through effective education and changes in that socioeconomic status, they can perform as well as others. Our constitutional mandate does not allow us to consign poorer children permanently to an inferior education on the theory that they cannot afford a better one or that they would not benefit from it."¹⁷

Chart 3 shows how the Court thought changes in the educational outcomes of districts with students from low socioeconomic backgrounds could be effected. The focus was on creating greater parity in school based programs through a greater input of State aid. The Court stated that this funding had to create substantial equality between the special needs districts and the property-rich districts and was not to be subject to the discretionary actions of government at any level. The level of funding was also to be adequate to provide for the special educational needs of the poorer urban districts and address the students' extreme disadvantage.

In 1990, the "Quality Education Act of 1990" (QEA), P.L.1990, c.52 (C.18A:7D-1 et al.), established a foundation aid program for school districts and for the Abbott districts (then called Special Needs Districts, SNDs), a special needs weight of 1.05 to be used in the calculation of their foundation aid. Under the QEA, the Governor was given the authority to increase the weighting factor, if the Legislature did not disapprove, which would have the effect of increasing funding for the SNDs. This was a mechanism to provide greater equality in per pupil expenditures between the SNDs and wealthy districts (see Chart 4). This authority was never exercised by the Governor.

Chart 4 shows the State's response to Abbott II. Through the QEA, the State provided foundation aid for eligible districts and for the Abbott districts increased the amount of their foundation aid by the application of the 1.05 special needs weight. Additional aid (At-Risk aid) was provided to districts with low-income pupils, based on a per pupil amount times the number of low-income pupils.

In Abbott III,¹⁸ the Court held the QEA unconstitutional because of "the Act's failure to assure parity of regular education expenditures between the special needs districts and the more affluent districts."¹⁹ Under the QEA, parity in funding was subject to the discretion of the Governor and the Legislature (see Chart 5). Since the Court acknowledged that the State had made some progress toward achieving parity since Abbott II, the Court did not intervene further at this time. However, the Court did put the State on notice that "substantial equivalence of the special needs districts and wealthier districts in expenditures per pupil for regular education [was to be] achieved for school year 1997-1998 along with the provision for the special educational needs of students in those special needs districts."²¹ Chart 5 shows, in bold-faced type, the Court's holding that QEA is unconstitutional. Not only did QEA permit discretion in the establishment of the level of SND aid, according to the Court, it did not adequately address the special education needs of the students

¹⁷Abbott II at 340

¹⁸Abbott v. Burke, 136 N.J. 444 (1994)

¹⁹Abbott III at 447

²¹Abbott III at 447

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of the Abbott districts.

In December of 1996, as a response to Abbott III, "The Comprehensive Educational Improvement and Financing Act of 1996 (CEIFA)," P.L.1996, c.136 (C.18A:7F-1 et seq.), was enacted. Under CEIFA, core curriculum content standards were designated as defining what constitutes "thorough" under the constitutionally mandated thorough and efficient education. These content standards were to be implemented in all districts. The Statewide assessments (educational outcomes) were also revised to assess student proficiency in achieving the content standards at grades 4, 8 and 11. "The funding provisions in the statute purported to implement the efficiency component of the constitutionally mandated thorough and efficient education. The statute set forth a per pupil amount, the T & E amount, deemed necessary to achieve the content standards. Expenditures in excess of the prescribed T & E amount were deemed to be unnecessary to achieve a thorough and efficient education. The funding scheme of CEIFA was derived from a hypothetical school district that served as the model for all school districts."²²

Under CEIFA, State aid for districts has two basic components: wealth-based and categorical. Wealth based aid, primarily core curriculum standards aid, supports a district's T & E, or regular education budget (see Table 1 for an example of this calculation). The T & E budget for each district is calculated by using the per pupil T & E amount multiplied by a district's weighted enrollment. Under the model school, different weights are assigned to students at different grade levels -- the weights are associated with the relative costs of educating a student at that grade level with students in grades 1 through 5 given the weight of 1. The T & E flexible amount, plus or minus 5 percent of the per student T & E amount, is used to calculate a district's minimum and maximum T & E budget, the range within which the State considered a district could efficiently provide a thorough and efficient education. Under CEIFA an Abbott district's T & E budget is calculated only at the maximum T & E amount. As can be seen from Table 1, a district's budget year T & E budget provides for enrollment growth, shifts in the relative numbers of pupils in different grade levels and change in the cost of living as measured by the CPI, items D-1 through D-4. After subtracting a district's categorical aid, the comparison made ensures that all districts, except Abbott districts, receive State aid based on at least at the minimum T & E budget but not greater than the maximum T & E budget. A district's T & E budget is then used, in combination with two measures of district wealth, to calculate the core curriculum standards aid a district will receive, if any. Calculating an Abbott district's T & E budget at the maximum per pupil T & E amount ensured the maximum possible amount of core curriculum standards aid under the CEIFA formula.

In addition to core curriculum standards aid, CEIFA provides two forms of aid for which a district qualifies based on the percent of low-income students in the district's enrollment. These aid programs, Early Childhood Program Aid and Demonstrably Effective Program Aid, were intended to address some of the special needs of low-income students, including full-day kindergarten and preschool programs.²³ (see Chart 6).

In Abbott IV, the Court found that while the standards were "facially adequate and consistent with the education clause," with respect to the amount of aid provided the Abbott

²²Background Paper: Abbott Decisions, p. 66

²³Abbott districts have received over 60 percent of the total aid each year in these two aid categories, in FY 2004 66.7 percent, \$353.5 million of \$530 million.

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districts, CEIFA was unconstitutional.²⁴ According to the Court, CEIFA did not base its standards for the amount a district is to spend to provide a thorough and efficient education on either the districts which were, by the current output measures of Statewide assessments and high graduation rates, providing a thorough and efficient education, or on the characteristics of the special needs districts and the level of spending that would be required to enable these districts to conform to the standards set by the high achieving districts. The Court ordered, as interim relief, that the State increase funding for the 30 poorer urban districts so that they could spend an amount per-pupil that was equivalent to the average per-pupil expenditure for regular education in the DFG I & J districts.²⁵ *Abbott v. Burke* Parity Aid first became a line item in the FY 1998 budget in an amount of \$246 million (Chart 7).

In addition, the Court, finding that the State had still failed to conduct a study of the special educational needs of students in the Abbott districts, ordered that the "Superior Court, consistent with this opinion, shall direct the Commissioner to initiate a study and to prepare a report with specific findings and recommendations covering the special needs that must be addressed to assure a thorough and efficient education to the students in the SNDs. That report shall identify the additional needs of those students, specify the programs required to address those needs, determine the costs associated with each of the required programs, and set forth the Commissioner's plan for implementation of the needed programs. In addition, the Superior Court shall direct the Commissioner to consider the educational capital and facility needs of the SNDs and to determine what actions must be initiated and undertaken by the State to identify and meet those needs."²⁶

The study ordered in *Abbott IV*, was conducted by a Special Master appointed by Judge Michael Patrick King. Judge King subsequently conducted hearings and made recommendations that certain programs be implemented by the Abbott districts. In *Abbott V*²⁷ the Court required the development of a different strategy for approaching education in the Abbott districts. The department's response to this was the requirement that each school in an Abbott district adopt an approved model for whole school reform. The Court further required the implementation of full-day kindergarten and half-day pre-school programs for three- and four-year olds in all Abbott districts. In order for the districts to accomplish this, the Court required the State to provide additional funding, as demonstrated and needed. Additional *Abbott v. Burke* Aid became a line item in the budget for the first time in FY 2000.

In addition, the Supreme Court addressed the issue of inadequate, and in some cases, dangerous facilities, by requiring that the State investigate and eventually fund the cost of providing new facilities in the Abbott districts. In July of 2000, the "Educational Facilities Construction and Financing Act" was enacted, which required the State to fully fund the cost of new and remodeled facilities in the Abbott districts, and which provided at a minimum, State funding for 40% of the eligible costs for facilities in all other districts.

²⁴*Abbott v. Burke*, 149 N.J. 145 (1997)

²⁵*Abbott IV* at 197

²⁶*Abbott IV* at 199-200 (footnote omitted)

²⁷*Abbott v. Burke*, 153 N.J. 480 (1998)

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Two later Abbott decisions, Abbott VI²⁸ and Abbott VIII²⁹, further clarified the Court's orders regarding preschool programs. In Abbott VI, the Court required the State to provide greater direction through guidelines for the preschool programs by adopting standards that would relate instruction in the preschools to the core curriculum content standards and that would address concerns on the certification of persons teaching in preschools, especially those teaching in licensed child care centers providing preschool education under contract with the Abbott districts (both the obtaining of certification and the length of time within which this would be accomplished). In Abbott VIII, the Court required the Department of Education to work with the Abbott districts to be more aggressive in reaching out to their communities to make sure that the preschool programs were as inclusive as possible. In FY 2003, the appropriations act added a new line item in the Department of Education budget, Abbott Preschool Expansion Aid, with an appropriation of \$142.4 million.

Chart 8 shows that efforts to reduce the disparity in educational outcomes between the students in the Abbott districts and the students in the DFG "I" and "J" districts by intervening at an early age and providing quality preschool education. By doing so, the expectation is that the children coming into full-day kindergarten in the Abbott districts are better equipped to begin the K-12 education that will provide them with a thorough and efficient education. In addition, by reorganizing each Abbott district school around a proven curriculum, such as Success for All -- Roots and Wings (which has a very strong emphasis on literacy), the ongoing educational process within the K-12 schools can be strengthened. The chart shows that given the change to the students entering the schools and the restructuring of the schools themselves, the expectation is a reduction in the disparity of educational outcomes, in part measured by the Statewide assessments.

Financial Impact and Educational Outcomes

Throughout its decisions, the Court has constantly used the DFG "I" and "J" districts for comparison with the Abbott districts. Figures 2 and 3 provide some comparative data between these districts. Figure 2 provides a comparison of the Abbott and "I" and "J" districts on different measures for the school years 1997-98 to 2003-04. Enrollment has increased by 20 percent in the "I" and "J" districts while increasing by 5.4 percent in the Abbott districts. Wealth based State aid for the "I" and "J" districts has decreased by 11 percent while increasing by 49.5 percent for the Abbott districts. On the comparison often referred to in the Court decisions, the "property-rich" districts have maintained a 4 to 1 ratio in the equalized property value of their districts compared with the Abbott districts and are approaching the same ratio in their income which is also used as an indicator of the ability to pay for education. The disparity in the wealth of the Abbott districts compared with the "I" and "J" districts has remained constant over this period. The general fund levy per pupil measure shows that the "I" and "J" districts have increased the local amount raised per pupil over this period by 21.2 percent. The Abbott districts' local share per pupil has decreased by 1.7 percent over this same period. In response to the Court's concern with municipal overburden, the budget language adopted since *Abbott v. Burke* Parity Aid has been a line item in the budget, has limited an increase in the taxes raised in the Abbott districts. The measure of general fund levy per pupil shows the effect of this budget language -- the general fund levy per pupil in the Abbott districts has decreased over this period at the same time that their equalized

²⁸Abbott v. Burke, 163 N.J. 95 (March 2000)

²⁹Abbott v. Burke, 170 N.J. 537 (Feb. 2002)

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property value and aggregate income have increased. However, under recommended FY 2004 budget language (see p. D-120), if enacted in the appropriations act, the commissioner would have the authority to require certain Abbott districts to increase the amount of the general fund levy raised by the district in order to qualify for Additional Abbott v. Burke State Aid. The budget language on page D-120 is further clarified in regulations proposed by the commissioner under authority granted in the FY 2003 appropriations handbook (page B-41) authorizing the commissioner to adopt regulations related to Additional Abbott v. Burke State Aid³⁰. These proposed regulations provide the possibility of requiring an Abbott district to increase its general fund tax levy if the district's combined equalized tax rate is less than 130 percent of the State average combined equalized tax rate.³¹ The Office of Administrative Law has indicated that the earliest these proposed regulations could be adopted is in the June 16, 2003 New Jersey Register. Since the regulations are proposed under the authority given the commissioner in the FY 2003 appropriations act, they would expire upon the adoption of the FY 2004 appropriations act. Consequently, there is recommended FY 2004 budget language that would continue the authority of the commission to promulgate regulations, but with the stipulation that the regulations would not go through the usual process for the adoption of regulations under the "Administrative Procedure Act," P.L.1968, c.410. Rather, the regulations would be considered adopted when filed with the Office of Administrative Law.³²

"We have decided this case on the premise that the children of poorer urban districts are as capable as all others; that their deficiencies stem from their socioeconomic status; and that through effective education and changes in that socioeconomic status, they can perform as well as others. Our constitutional mandate does not allow us to consign poorer children to an inferior education on the theory that they cannot afford a better one or that they would not benefit from it."³³

Figure 3 shows the percent of elementary school students taking the ESPA who have scored proficient or advanced proficient for the assessment years 1999 to 2002. While the Court used the High School Proficiency Test in its comparisons between the Abbott and "I" and "J" districts, given

³⁰This language provides, in part that "The commissioner shall be authorized to take any necessary action to fulfill this responsibility, including, but not limited to, the adoption of regulations pursuant to P.L.1968, c.410 (C.52:14B-1 et seq.), related to the receipt and/or expenditure of State aid by the 'Abbott districts' and the programs, services and positions supported thereby."

³¹The reference is in two places under Subchapter 6, "District Requests for Additional Supplemental Funding: 6A:10-6.1(b)7(i) and 6A:10-6.1(d)3(iii).

³²Page D-119, "The commissioner shall be authorized to take any necessary action to fulfill this responsibility, including but not limited to, the adoption of regulations related to the receipt and/or expenditure of State aid by the 'Abbott districts' and the programs, services and positions supported thereby. Notwithstanding any provision of P.L.1968, c.410 (C.52:14B-1 et seq.), any such regulations adopted by the commissioner shall be deemed adopted immediately upon filing with the Office of Administrative Law."

³³Abbott II at 340

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the department's current emphasis on early childhood education and literacy, the ESPA comparisons are used in this paper. One difficulty in making comparisons on the language arts/literacy part of the ESPA, however, is that after the 2001 ESPA scores were initially reported, the department had the scores recalculated using a different cut-off point. As a result, the percent of students scoring proficient or advanced proficient on the language arts/literacy portion of the 2001 ESPA increased (note the considerable jump in average school proficiency on the language arts/literacy scores between the 2000 and 2001 ESPAs, from 35.5 to 62.8 in the Abbott districts and from 82.3 to 97.2 in the "I" and "J" districts). Comparison between the language arts/literacy scores for the 2001 and 2002 assessments indicates an improvement in the average for the schools in the Abbott districts as well as in the I & J districts. Comparisons across the Math assessment for all years also shows improvement in the Abbott districts, with the "I" and "J" districts maintaining consistently high proficiency levels. The standard for proficiency on the Statewide assessments set by the State Board of Education is that by July 1, 2000, 75 percent of the students in a school, with certain exceptions, are to be proficient or advanced proficient in all content areas of the ESPA. While the data indicate that students in the Abbott districts have narrowed the gap on the language arts/literacy assessment, from a gap of 49 points on the 1999 assessment to a gap of 26.6 points on the 2002 assessment, the gap on the math assessments remains considerably larger, 43 points. In addition, a comparison of the minimum scores between the Abbott district schools and the "I" and "J" schools shows that in the Abbott districts, at least one school has only 3.4 percent of its students proficient on the language arts/literacy portion and at least one school has only 7.1 percent of its students proficient on the math portion of the 2002 ESPA. In the "I" and "J" districts, all schools have met the State proficiency standard for the language arts/literacy portion of the ESPA, but at least one school (68.8 percent of students) has not met the State proficiency standard for the math portion of the ESPA.

Statewide assessments are currently in the process of revision. For the content areas of reading, math and science requirements are now being set by the federal government under the "No Child Left Behind Act of 2001" (NCLB). Beginning in the school year 2005-06, the State is to have in place Statewide assessments for annual administration to all students in grades 3 to 8, and is to have adopted standards for science. The State will administer a new Statewide assessment in grades 3 and 4 in May of 2003, NJ ASK 3 and NJ ASK 4. The NJ ASK 4 will have a number of items from the previous ESPAs which will enable a comparison across the assessments.³⁴ These assessments are to be used as part of the measurement of annual yearly progress of schools in meeting the requirements of the federal law. New Jersey has set proficiency standards for the Statewide assessments, which will be in effect for two years.³⁵ Under the federal law, the stakes associated with these annual Statewide assessments are high. Consequences, some of which have already been implemented, for schools listed as needing improvement, include: two consecutive years in the category of "needs improvement" - the identification of the school as such to the parents of the schools' students, provision of technical assistance from the State, and the offer to the parents to send their child/ren to another school in the district; three consecutive years in the category of "needs improvement" - the offer of instruction from a provider of supplemental services chosen by the parents; four consecutive years in the category of "needs improvement" - replacing school staff, implementing a new curriculum, decreasing management authority at the school level, appointing an outside expert to advise the school, extending the school day or year, or changing the school's internal organizational structure; five consecutive years in the category of "needs

³⁴The department's plans for meeting the federal schedule are found in N.J.A.C.6A:8-4.1.

³⁵For these standards see <http://www.nj.gov/njded/grants/nclb/presentation>.

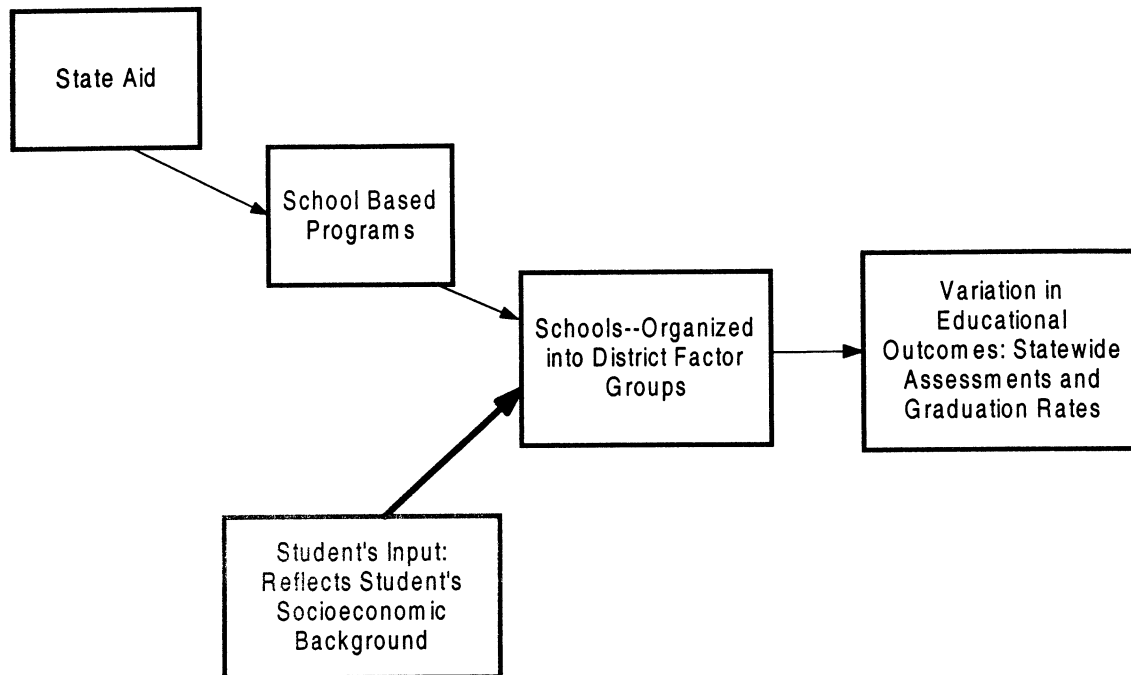
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improvement" - a restructuring of the school.

Given the continued disparities in assessment scores shown in Figure 3, the State will face a challenge to be in compliance with the requirements of the NCLB between now and 2014.

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Chart 1: DOE District Factor Groups

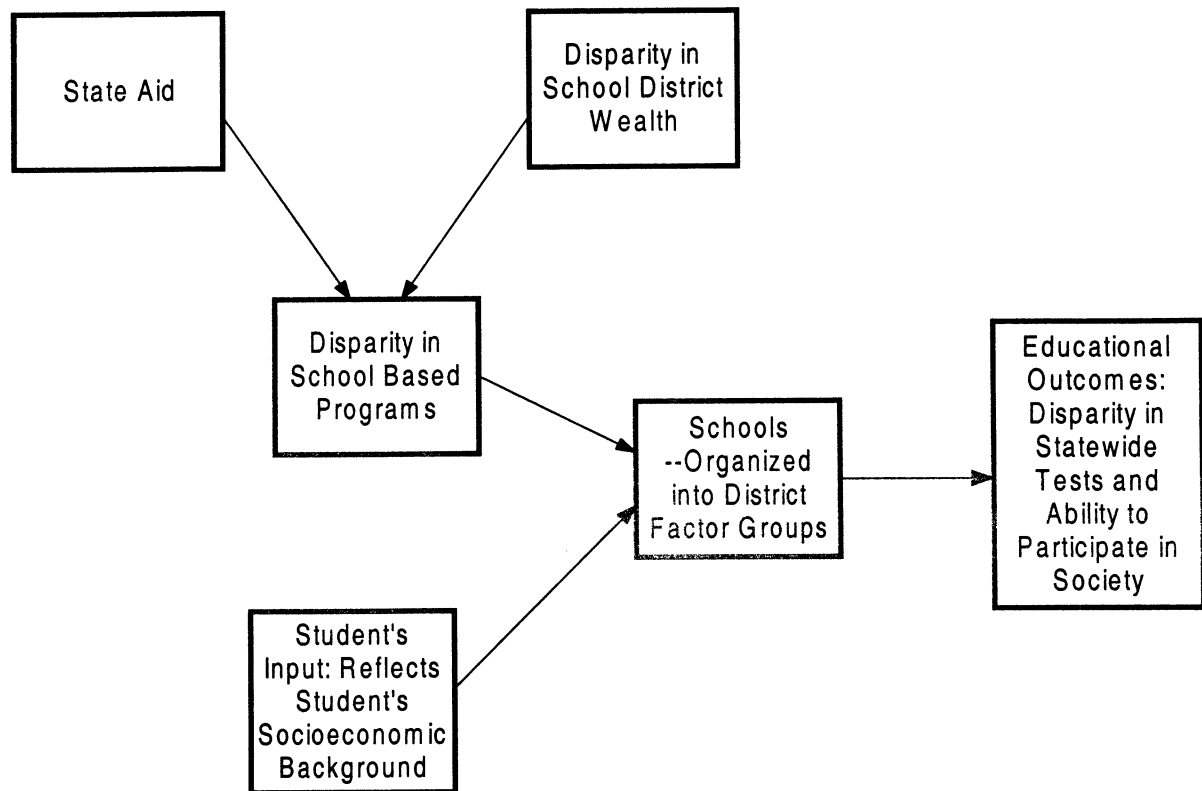


Three purposes for district factor groups:

1. to relate educational outcomes to research in education;
2. to assist policy makers in interpreting the disparity in educational outcomes as deriving from the disparity in socioeconomic background of students, not a deficiency in school based programs; and
3. to provide a basis for comparison on educational outcomes between districts with students of similar socioeconomic backgrounds.

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Chart 2: Abbott I findings concerning conditions to be considered regarding disparities between districts

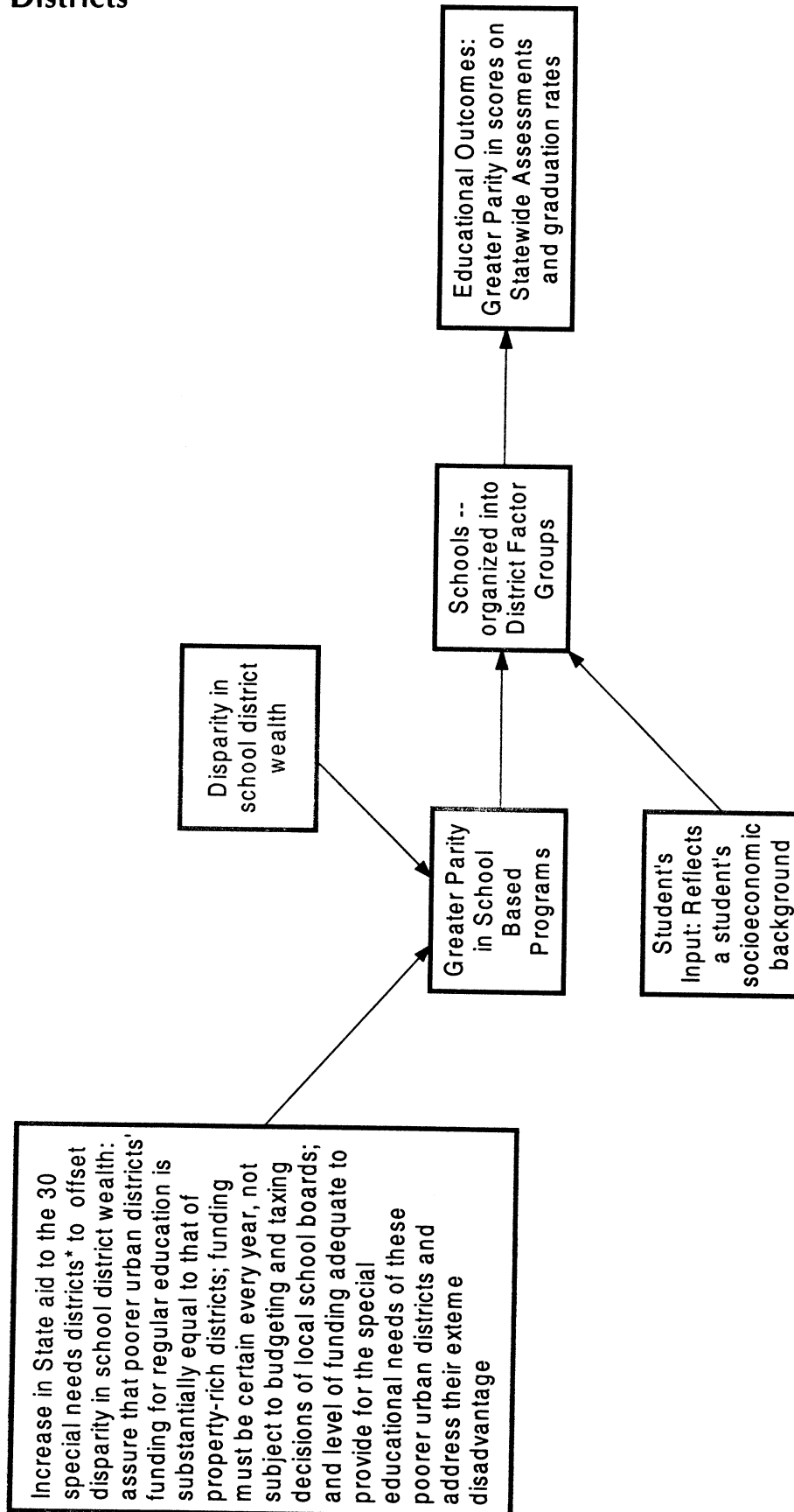


School based programs are considered the inputs provided by the districts in order to provide a thorough and efficient education. The Court in Abbott I directed the following inputs to be considered when looking for disparities between school districts in the State:

- adequacy of instruction
- breadth of program offering
- adequacy of programs and services for children with special education needs
- qualification of school personnel
- quality of physical facilities
- effectiveness of administration
- adequacy of monitoring and evaluation.

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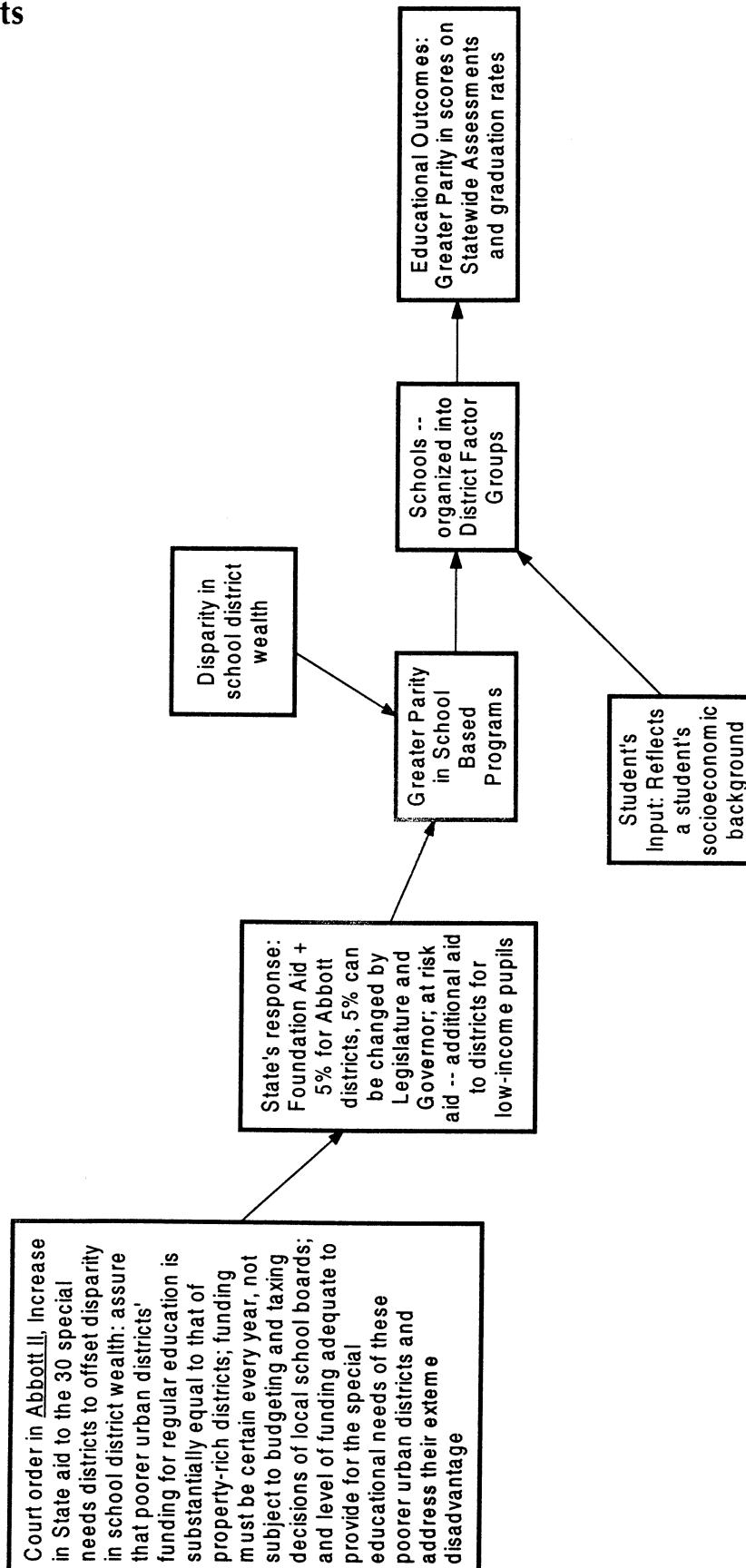
Chart 3: Abbott II (1990): Court's order regarding State Aid



*28 districts comprised the original list of special needs districts, two more were added by the Legislature in 1999 and received Abbott aid beginning in the 1999-2000 school year.

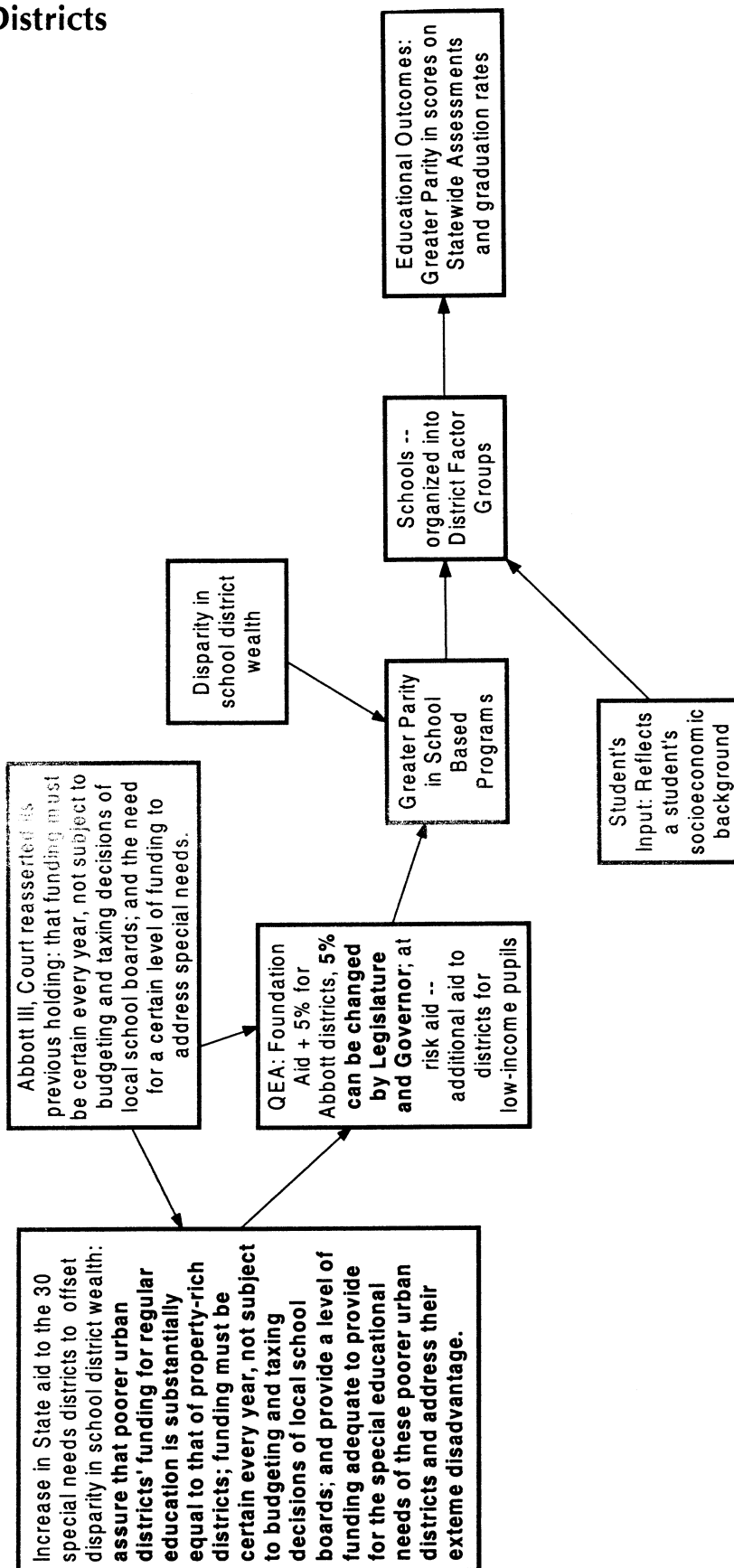
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Chart 4: Quality Education Act of 1990



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Chart 5: Court holds Quality Education Act of 1990 Unconstitutional



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Table 1: Calculation of Core Curriculum Standards Aid under Current Weights
Sample District, School Year 2000-2001

Weighted Enrollment Calculation

		Pupils		
Grade Category	'10/15/00	Weight	Wght Enrollment	
Kindergarten	173	0.5	87	'(A1)
Elem School Gr. 1-5	770	1	770	'(A2)
Middle School Gr. 6-8	353	1.04	367	'(A3)
High School Gr. 9-12	270	1.11	300	'(A4)
Subtotal	1566		1523	'(A)

Maximum T&E Budget Calculation*

T&E Amount	T&E Flexible Amt	Wght Enrollment	Total	
\$7,913	\$396	1,523	\$12,656,733	'(B)

*T & E amount plus flexible amount times weighted enrollment

Minimum T&E Budget Calculation*

T&E Amount	T&E Flexible Amt	Wght Enrollment	Total	
\$7,913	\$396	1,523	\$11,451,330	'(C1)

*T & E amount minus T & E flexible amount times weighted enrollment.

Minimum T&E Budget Calculation: Abbott Districts#

T&E Amount	T&E Flexible Amt	Wght Enrollment	Total	'(C2)
\$7,913	\$396			

#calculation is the same as for the maximum T & E Budget calculation.

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Local Share Base Budget Calculation

T&E Amount	T&E Flexible Amt	Wght Enrollment	Total	
\$7,913	\$396	1,523	\$11,451,330	'(C3)

T&E Budget Calculation

Pre-budget year net T&E Budget	\$11,428,382	'(D-1)
Weighted Enrollment for pre-budget year	1,401	'(D-2)
Item (D-1)/Item (D-2)	\$8,159	'(D-3)
Item (D-3) times weighted enrollment (A)	\$12,429,022	'(D-4)
Item (D-4) inflated by the CPI	\$12,801,893	'(D)
Special Education Aid	\$920,014	'(E)
Bilingual Education Aid	\$10,350	'(F)
County Vocational Aid	\$0	'(G)
Distance Learning Network Aid	\$67,381	'(H)
Transportation Aid	\$703,611	'(I)
Adult H.S. and Post-Secondary Voc. Aid	\$0	'(J)
Academic Achievement Reward	\$18,270	'(K)
Demonstrably Effective Program Aid	\$0	'(L)
Early Childhood Program Aid	\$0	'(M)
Instructional Supplement Aid	\$0	'(N)
Subtotal Items (E) through (N)	\$1,719,626	'(O)
Item (D) less Item (O)	\$11,082,267	'(P)
Greater of Items (C1), (C2) or (P)	\$11,451,330	'(Q)
Lesser of Item (B) or Item (Q)	\$11,451,330	'(R)

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Local Share Calculation

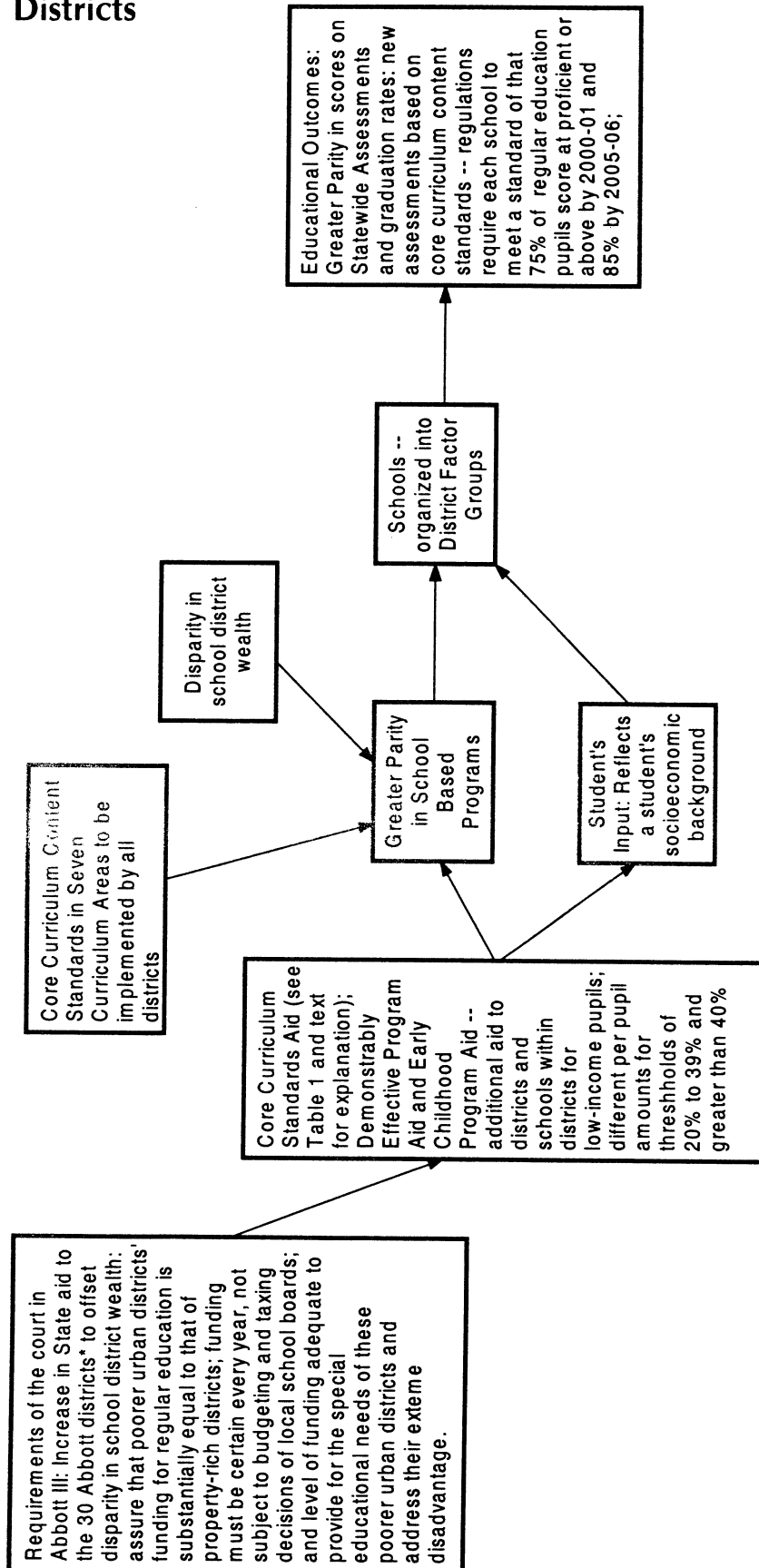
Equalized Valuation (10/1/99)	\$702,928,715	'(S)
District Income	\$158,791,512	'(T)
Equalized Valuation x (property value multiplier/2)	\$5,282,899	'(U)
District Income x (income multiplier/2)	\$3,848,656	'(V)
Subtotal Items (U) and (V)	\$9,131,555	'(W)
Item (R) / Item (C3)	1	'(X)
Local Share Item (W) times Item (X)	\$9,131,555	'(Y)

Core Curriculum Standards Aid Calculation

T&E Budget (Item (R))	\$11,451,330	'(DD)
Local Share (Item (Y))	\$9,131,555	'(EE)
Core Curriculum Standards Aid	\$2,319,775	

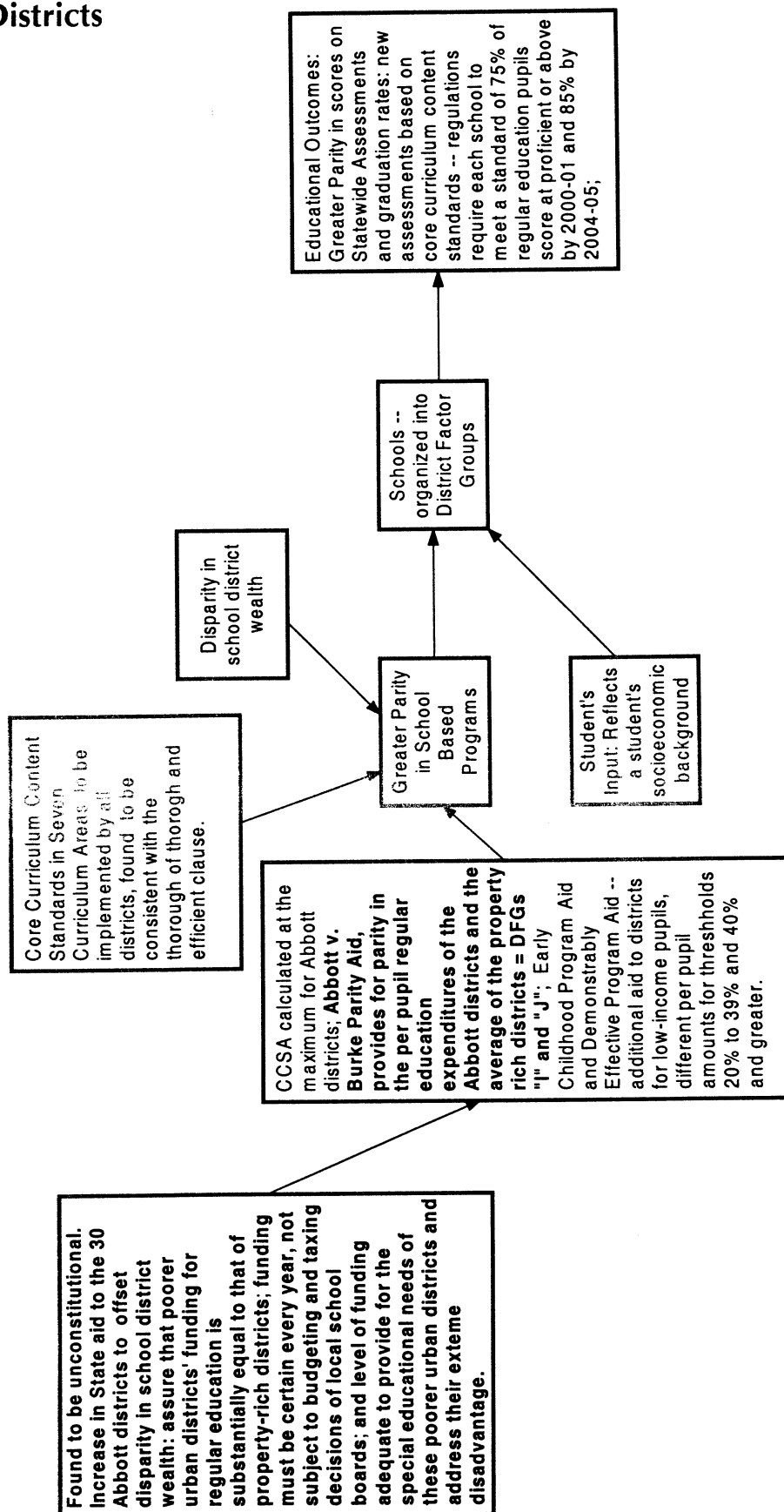
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Chart 6: Comprehensive Educational Improvement and Financing Act of 1996, Response to Abbott III



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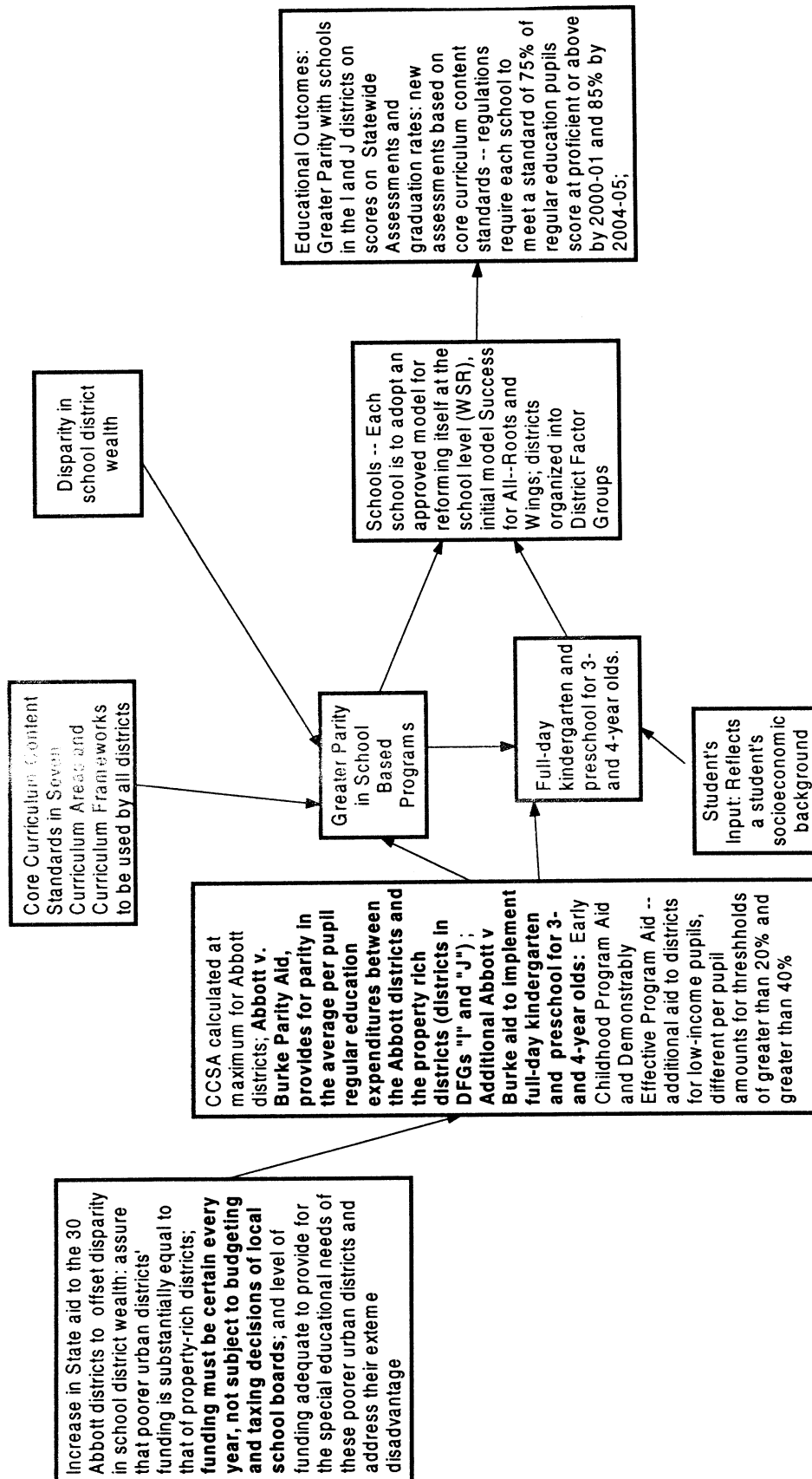
Chart 7: Abbott IV , CEIFA unconstitutional with respect to Abbott districts-- Abbott v. Burke Parity Aid*



*In addition to requiring parity aid, the Court remanded the case to the Superior Court, Chancery Division to determine what judicial relief was necessary to address the need for supplemental programs and facilities improvements in Abbott districts.

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Chart 8: Abbott V -- For the Abbott Schools: Whole School Reform, Full-day kindergarten and half-day preschool for 3- and 4-year olds required, funded by Additional Abbott v. Burke State Aid



*In addition to the implementation of full-day kindergarten and half-day preschool (the State implemented full day preschools), the court held that the DOE had complied with its order to study the facilities needs of Abbott districts and ordered that the State proceed with planning for facilities, new and remodeled, for the Abbott districts and required that the State pay 100 percent of the eligible costs of these facilities. Facilities legislation was enacted in July of 2000 which included that the State would pay at 100 % of the eligible costs of Abbott district facilities and at least 40% of the eligible costs of facilities in all other districts.

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Figure 3: Elementary School Proficiency Assessment (ESPA), Schools in the Abbott and I & J Districts
Test Years 1999 to 2002, Average, Standard Deviation, Maximum and Minimum Scores*

Districts	Measure	1999		2000		2001		2002	
		LAL	Math	LAL	Math	LAL*	Math	LAL	Math
Abbott	AVG	34.2	36.6	35.5	43.0	62.8	43.4	70.3	48.0
	SD	16.9	20.3	18.6	20.9	19.2	21.5	16.9	21.3
	MAX	91.5	100.0	100.0	100.1	100.0	100.0	100.1	100.0
	MIN	0.0	0.0	0.0	4.3	11.8	2.5	6.9	7.1
I and J	AVG	83.6	87.1	82.3	91.0	97.2	90.1	96.9	91.3
	SD	8.8	8.6	10.2	6.6	3.5	7.8	3.4	6.1
	MAX	100.0	100.0	100.0	100.0	100.1	100.1	100.1	100.0
	MIN	52.7	56.4	42.6	64.7	78.2	50.0	77.8	68.8

The averages are computed for the schools in the Abbott and I & J districts using the total proficient in each school.

While the Standard Deviation is a statistical measure usually used for estimating the spread around the average of a sample, it is used here to show the difference in spread of school proficiency scores comparing that spread in the Abbott districts with the spread in the I & J districts.

LAL = Language Arts/Literacy

LAL* = The Language Arts/Literacy portion of the 2001 ESPA was rescored so comparisons between earlier tests are not valid. Comparisons between the 2001 and 2002 LAL can be made. For the Math portion of the ESPA comparisons across all four years are valid.

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Figure 2: Wealth Based State Aid and Resident Enrollment, Abbott and "I" and "J" Districts
School Years 1997-98 to 2003-04

Districts	Measures	SY 1997-98	SY 1998-99	SY 1999-00	SY 2000-01	SY 2001-02	SY 2002-03	SY 2003-04**	Pct Chnge SY1998 to SY 2004*
"I" & "J"	Oct Pupil Count	223,000	231,072	239,241	245,701	252,927	259,574	267,662	20.0%
	State Aid	\$70,902,299	\$64,504,708	\$62,768,866	\$64,556,267	\$63,122,916	\$63,122,916	\$63,122,916	-11.0%
	Income/pupil		\$198,517	\$202,751	\$203,423.85	\$217,207	\$240,154	\$278,151	40.1%
	Eqval/pupil		\$619,323	\$619,904	\$603,605	\$683,185	\$745,534	\$804,239	29.9%
	Levy/pupil	\$7,961	\$8,149	\$8,389	\$8,774	\$9,156	\$9,649		21.2%
Abbott	Oct Pupil Count	278,967	280,402	282,080	285,667	288,318	291,075	294,021	5.4%
	State Aid	\$2,021,917,634	\$2,121,934,064	\$2,256,969,757	\$2,470,952,957	\$2,879,209,348	\$2,985,622,762	\$3,021,832,762	49.5%
	Income/pupil		\$60,773	\$56,304	\$58,363	\$62,518	\$65,710	\$69,787	14.8%
	Eqval/pupil		\$149,739	\$150,668	\$155,128	\$162,968	\$179,859	\$197,173	31.7%
	Levy/pupil	\$1,972	\$1,966	\$1,974	\$1,951	\$1,942	\$1,939		-1.7%
79	Ratio inc/pupil		3.27	3.60	3.49	3.47	3.65	3.99	22.0%
	Ratio eqval/pupil		4.14	4.11	3.89	4.19	4.15	4.08	-1.4%

Oct Pupil Count = resident enrollment as reported on the Application for State School Aid in October of the school year.

State Aid = includes core curriculum standards aid, supplemental core curriculum standards aid, early childhood program aid, demonstrably effective program aid and the court ordered Abbott aids.

Income/pupil = the total aggregate incomes of the districts divided by the total number of pupils from the October ASSA count.

Eqval/pupil = the total equalized property value of the districts divided by the total number of pupils from the October ASSA count.

Levy = the general fund levy which districts raise by taxes to fund the districtbudget under CEIFA.

*Pct Change for Income/pupil and Eqval/pupil shows the change between school years 1998-99 and 2003-04; Levy/Pupil shows the change between school years 1997-98 and 2002-03.

**Projected enrollment.